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Attorney for Matthew Charles Kennington

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA

Plaintiff,

vs.

MATTHEW CHARLES KENNINGTON,

Defendant.

**Defendant's Memorandum in
Opposition to Plaintiff's
Motion for Detention**

Case No. 2:23-cr-00421-DAK

Judge: Hon. Dale A. Kimball

Magistrate Judge: Hon. Dustin B. Pead

COMES NOW, Matthew Kennington, who is currently in custody, by and through his attorney, Ryan Kingston, and files this Memorandum in Opposition to Plaintiff's Motion for Detention as follows:

INTRODUCTION

The government asserts that Defendant is a danger to the community and a flight risk. However, he is neither. Defendant satisfies the factors of 18 U.S.C. § 3142(g) which can reasonably assure the Court of Mr. Kennington's appearance as required and the safety of any other person and the community were he to be released from custody.

FACTORS CONCERNING DETENTION

1. **History and Characteristics of the Person (§ 3142(g)(3)):** (A) Character, Physical and Mental Condition, Family Ties, Employment, Financial Resources, Length of Residence in the

Community, and Community Ties: Mr. Kennington has strong ties to the community as evidenced by his ability to secure a stable residence with his sister Annalyce Kennington; stable employment, and positive familial relationships. In fact, nearly all of Mr. Kennington's family lives in Utah. His character, physical and mental condition, as well as community ties, all suggest a low flight risk.

Multiple people can attest to his character. *See attached* Exhibit A.

(B) Criminal History and Record Concerning Appearance at Court Proceedings: Mr. Kennington has no prior record of failure to appear at court proceedings. In fact, Mr. Kennington has no prior criminal record at all. Additionally, there is no history of violence or other behaviors that would suggest a danger to the community.

2. **Pretrial Sentence Report:** Mr. Kennington's Amended Pretrial Services Report affirms that Mr. Kennington poses no danger to the community and does not pose a flight risk. *See Dkt* #20.

3. **Nature and Seriousness of the Danger Posed (§ 3142(g)(4)):** The Court must carefully evaluate the nature and seriousness of the danger posed by Mr. Kennington's release. It is this counsel's belief, based on the available information, that there is no danger to any person or the community. Mr. Kennington is not a flight risk, and if necessary, his release can be supervised to ensure the safety of the community.

4. **Nature and Circumstances of the Offense Charged (§ 3142(g)(1)):** The nature and circumstances of the offense charged is also important in determining pretrial release. Mr. Kennington appreciates the gravity and seriousness of the charge against him. However, in this case, it is essential to note that the offense charged does not involve a crime of violence, a violation of section 1591, a Federal crime of terrorism, or minors. Moreover, there is no involvement of controlled substances, explosives, or destructive devices, which reduces the inherent risk associated

with certain offenses. While this case does involve firearms, the Court may prohibit Mr. Kennington from possessing or having any contact with firearms.

5. **Weight of the Evidence (§ 3142(g)(2)):** The weight of the evidence against Mr. Kennington must be considered. The evidence against him is not overwhelming. A careful examination of the evidence will reveal its lack of substantial strength, thereby mitigating the risk of flight.

CONCLUSION

In conclusion, considering the factors outlined in 18 U.S.C. § 3142(g), Mr. Kennington respectfully submits that he be released from pretrial custody, subject to appropriate conditions deemed necessary by the Court to reasonably assure his appearance and the safety of the community.

DATED December 21, 2023.

/s/ Ryan C. Kingston
Ryan C. Kingston
Attorney for *Defendant*

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **Defendant's Memorandum in Opposition to Plaintiff's Motion for Detention** to be sent via electronic filing, on Thursday, December 21, 2023, to:

Victoria K. McFarland
US ATTORNEY'S OFFICE
111 S MAIN ST STE 1800
SALT LAKE CITY, UT 84111-2176
(801) 325-3373
victoria.mcfarland@usdoj.gov

/s/ Ryan C. Kingston

EXHIBIT A

December 21, 2023 at 5:13 PM

I am Matthews' sister and adore him like no other.

Matthew has a great work ethic and when he's not working his regular job, he is often doing side jobs such as fixing cars. He's always been an entrepreneur as a kid, shoveling the neighbors driveways, mowing lawns, and raking leaves. He's definitely an introvert, such a sweet kid, and a kind/ generous person. He has a love for his friends, family, dogs, and trucks.

He's a good guy and does what he can for anyone who is in need while never asking for anything in return. He's the person I would call if my car broke down on the side of the road or if I needed assistance when it comes to financial help, a place to stay, or literally anything else, because I know he would do anything he could for me and others.

He treats strangers with respect, tips generously, gives to the homeless, and would be the last person to put anyone in danger. In fact, I would count on him to step in and protect random strangers if there were to be a dangerous situation.

I'm not claiming that my brother is perfect but he is generally a good judge of character and I am under no impression that he would be a danger to anyone. I am so confident in him that I would love to have him live in my home during this time.

Annalyce Kennington

A handwritten signature in black ink that reads "Annalyce Kennington". The script is cursive and fluid, with the first letter of each name being capitalized and prominent.

I Clyde Mattingly have known Mathew for 18 years and I cant count how many times hes been there to help me Weither it be Financially, mentally, physically emotionally hes gone the extra mile for me countless times and never expected anything in Return hes a great friend and trust worthy person I grew up with him gone through school with him Seen him look out for So many other people just out of the Kindness in his personality hes often helped work me out Rides to work even and ~~for~~ as far as getting me to my job in montana 800 miles away he keeps a upbeat attitude and always was understanding of my Situations he helped me get a transmission in my vehicle So i could be Self Suficant and get back on my feet Ive personally seen him help Random people who were broke down and needed a tow to a safe place to look abouts there car So they werent in a dangerous Situation on the side of the freeway, hes the type of man Who would go out of his way for anyone Weither it is convenant for him or not hes trustworthy, kind, carries himself in a way that is truly honorable hes a good man

I attest to everything being factual and true

Clyde Mattingly

801 440 1936

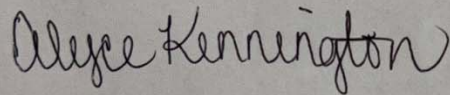
Clyde mattingly44@gmail.com

December 21, 2023

To Whom It May Concern,

I'm Matthew Kennington's mother, and I'm writing this letter in hopes that you will consider releasing him from the Salt Lake County jail. I've always known Matthew to be a responsible person, and I'm confident that he would never do anything intentional to hurt another person. He has made mistakes, just like all of us, but he's always held himself accountable for his actions and, to my knowledge, has made things right. He's a very caring person and would bend over backwards to help anyone in need. I've always known that if, and when, I need an extra hand with anything, Matthew would be the first to volunteer and be right there for me. He's a very kind hearted, generous person and a friend to everyone.

Sincerely,

A handwritten signature in cursive script that reads "Alyce Kennington". The signature is written in dark ink and is positioned above the printed name.

Alyce Kennington